

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of Request by the City of Yuma,
Arizona, for Waiver of the Commission's Rules
To Deploy a 700 MHz Public Safety
Interoperable Mobile Broadband Network

PS Docket No. 06-229

REQUEST FOR WAIVER

Pursuant to 47 C.F.R. § 1.925(b)(3), the City of Yuma, Arizona (the “City”), respectfully requests that the Commission waive any rules that would prohibit it from using public safety broadband spectrum (763-768 MHz/793-798 MHz) (“700 MHz Public Safety Broadband Spectrum”) to deploy a public safety wireless broadband network. Granting such a waiver would serve the public interest and prevent the frustration of the Commission’s rules. Consistent with the Commission’s rules, the Yuma Regional Communications System is designed to facilitate interoperable communications. The system’s local, state, tribal, and federal users need to expand data and photo-sharing, high resolution video feeds, tactical plans, and GIS information in connection with law enforcement, fire, and emergency services. Granting the requested waiver will allow the system to provide robust wireless broadband data service to first responders and supporting agencies across the region.

I. BACKGROUND

A. *The Yuma Regional Communications System*

At one time, Yuma County and surrounding California and Mexico border agencies were home to 30 separate, taxpayer-funded radio systems. These systems did not allow for interoperable communications and had serious coverage limitations. The Yuma Regional Communications System (“YRCS”) was designed to remedy these shortcomings. It is a multi-

jurisdictional, integrated public safety Project 25 (“P25”) 700/800 Megahertz (MHz) trunked Radio System, Video and Photo System, Data System, and Emergency 911 System. Oversight and access to the system are addressed by the YRCS Council—which is composed of police and fire chiefs—and an Intergovernmental Agreement (IGA) allows for the joint procurement/lease, maintenance, operation and use of the system. The system serves multiple public safety agencies across the Yuma Region. At the local level, the P25 radio system currently serves the Yuma County Sheriffs Office, the City of Yuma Police and Fire Departments, the Yuma County Office of Emergency Management, the Cocopah Indian Tribe Police Department, the City of Somerton/Cocopah Tribal Fire Department, the City of Somerton Police Department, and the Town of Wellton Police and Fire Departments. At the state level, the system serves the Arizona Department of Public Safety and the Arizona Department of Transportation.

On May 2, 2011, the United States Department of Homeland Security’s Office of Emergency Communications selected the City of Yuma as a Border Interoperability Demonstration Project, and awarded the City a grant of \$3,994,393.00.¹ The grant is intended to expand the system’s interoperability, and to include the following Department of Defense and Federal agencies: the Marine Corps Air Station Yuma; the U.S. Army Yuma Proving Grounds; the U.S. Customs and Border Patrol – Yuma Sector; the U.S. Marshall’s Office – Yuma; Alcohol Tobacco and Firearms – Yuma; the Federal Bureau of Investigations – Yuma; and the Drug Enforcement Agency – Yuma. As a Project 25 700/800 trunked system that utilizes TCP-IP connectivity, the system provides local interoperability and will allow these Federal agencies to seamlessly communicate via P25 VHF repeaters. The system also allows for potential communications between the Arizona Office of Emergency management and the C4

¹ See Department of Homeland Security, Border Interoperability Demonstration Project, available at: http://www.dhs.gov/xopnbiz/grants/gc_1261517564250.shtm.

Organization of Mexico utilizing the future “Secure Cross Border Network” planned by the FCC, the U.S. State Department, and the Department of Homeland Security.

The system allows for interoperable communications between providers responding to threats and natural disasters throughout Southwestern Arizona, including Yuma County, areas within Pima County, Cochise County, Santa Cruz County, Maricopa County, with additional coverage planned for La Paz County. The system also provides coverage in Imperial County, California. There are currently 534 mobile and 1089 portable radios on the system.

B. *Relevant Commission Actions*

The 700 MHz Public Safety Broadband Spectrum is currently held by the Public Safety Spectrum Trust, which the Commission designated as the nationwide Public Safety Broadband Licensee (“PSBL”).² The Commission originally intended that the PSBL would enter into a “public-private partnership” with a commercial entity that would construct and operate a nationwide network that commercial and public safety users would share. However, when Auction 73 closed in March of 2008, it did not produce a winning commercial bidder.³

Since that time, the Commission has both revised its rules and authorized entities to deploy public safety systems using this spectrum. In May 2010, the Commission granted 21 waiver petitions filed by entities that sought to deploy local or regional public safety networks in the public safety broadband spectrum.⁴ One year later, the Commission granted another petition filed by the state of Texas, and it indicated that it was “committed to moving forward” to address

² *In re Serv. Rules for the 698-746, 747-762 and 777-792 MHz Bands*, Second Report and Order, 22 FCC Rcd. 15289, 15406 ¶ 322 (July 31, 2007) (“Second Report and Order”).

³ Auction of 700 MHz Band Licenses Closes, *Public Notice*, DA 08-595 (Mar. 20, 2008).

⁴ *Requests for Waiver of Various Petitioners To Allow the Establishment of 700 MHz Interoperable Public Safety Wireless Broadband Networks*, 25 FCC Rcd. 5145 (May 12, 2010) (“Waiver Order”).

petitions filed by a number of other entities.⁵ In January 2011, the Commission mandated that all public safety broadband networks adopt LTE as a common technology platform.⁶ The Commission also stayed certain rules that were premised on the sharing of the 700 MHz public safety broadband spectrum with a commercial entity.⁷ The Commission noted, however, that because there remains no other mechanism to obtain access to the 700 MHz Public Safety Broadband Spectrum, “public safety entities seeking deployment authorizations during the pendency of this proceeding will still need to file a waiver petition with the Commission.”⁸

II. THE COMMISSION SHOULD GRANT THE CITY A WAIVER TO ALLOW THE YUMA REGIONAL COMMUNICATIONS SYSTEM TO USE THE 700 MHZ PUBLIC SAFETY BROADBAND SPECTRUM.

The Commission should grant a waiver to allow the Yuma Regional Communications System to use the 700 MHz Public Safety Broadband Spectrum. Under its rules, the Commission may grant a waiver if either “the underlying purpose of the rule(s) would not be served or would be frustrated by application to the instant case, and that a grant of the requested waiver would be in the public interest”; or if “[i]n view of unique or unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome or contrary to the

⁵ *Request for Waiver of Various Petitioners To Allow the Establishment of 700 MHz Interoperable Public Safety Wireless Broadband Networks*, PS Docket No. 06-229, ¶ 1 n.2 (May 12, 2011).

⁶ *Service Rules for the 698-746, 747-762 and 777-792 MHz Bands*, Implementing a Nationwide, Broadband Interoperable Public Safety Network in the 700 MHz Band, Amendment of Part 90 of the Commission’s Rules, WT Docket No. 06-150, PS Docket No. 06-229, WP Docket No. 07-100, Third Report and Order and Fourth Further Notice of Proposed Rulemaking, FCC 11-6 at ¶ 12 (Jan. 26, 2011) (“Third Report and Order”).

⁷ *Id.* at ¶ 13. Specifically, the Commission stayed the following rules: 47 C.F.R. §§ 90.1403(b)(1), (2), (3), (5), (8); 90.1405-90.1430; and 90.1435.

⁸ *Id.* at ¶ 14 & n.35.

public interest, or the applicant has no reasonable alternative.”⁹ Under both of these standards, a waiver is appropriate.

First, barring the City from using 700 MHz Public Safety Broadband Spectrum would frustrate the purpose of the Commission’s rules. As the Commission has explained, these rules seek “to facilitate a nationwide interoperable public safety broadband wireless network.”¹⁰ Granting the requested waiver would advance this goal. The Emergency Response Interoperability Center has developed and will continue to develop standards to ensure interoperability of any early deployments using this spectrum,¹¹ and the City is prepared to comply with any such requirements. Moreover, as described above, the City currently has potential funding through Department of Homeland Security grants to develop a broadband wireless network that could incorporate and interoperate with other agencies along the southwest board, as well as be interoperable with a larger nationwide network. The City and YRCS participating agencies are also exploring joint efforts with nationally-recognized commercial partners within the public safety arena. In light of these present opportunities, the public interest is served by allowing the City to begin deployment and speed services to the public safety community.¹²

Second, a waiver is appropriate because “unique . . . factual circumstances exist that would make the application of the rules contrary to the public interest.”¹³ Although the Commission’s original plans for the use of this spectrum did not come to fruition, there remains

⁹ 47 C.F.R. § 1.925(b)(3).

¹⁰ Waiver Order ¶ 14.

¹¹ *Id.*

¹² *Id.*

¹³ Waiver Order ¶ 15.

a critical public safety need to deploy broadband communications infrastructure using this spectrum. The ever-increasing need for larger bandwidth networks within the border regions for interoperability continues to grow as more local, state, tribal, and federal agencies expand data and photo sharing, high resolution video feeds, tactical plans, and GIS information for law enforcement, fire, and emergency services. Granting the requested waiver would allow the City to expand the system to provide robust wireless broadband data service to first responders and supporting agencies in the region, with the potential to add voice once the technology is developed. As noted, the City has potential funding and partnerships that the City expects to allow it to use this spectrum in a timely way. The City is committed to satisfying all of the conditions that the Commission has applied to other waiver recipients, including the conditions that the system be compatible with federal standards and fully interoperable with a nationwide network or other regional networks meeting federal standards.¹⁴

CONCLUSION

The City urges the Commission to promptly grant a waiver to allow the Yuma Regional Communications System to utilize the 700 MHz Public Safety Broadband Spectrum. The FCC's rules are designed to facilitate a nationwide interoperable public safety broadband wireless network. Waiving the rules that currently bar the City from using this spectrum serves this purpose, and advances the public interest. The City has potential funding to immediately begin

¹⁴ Waiver Order ¶¶ 17-65.

the design and deployment of a state-of-the-art interoperable LTE broadband data network to serve this region. The Commission should grant this request and allow the City to move ahead with these important efforts.

Respectfully submitted,

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